

The Honorable Robert S Lasnik

JAMES MCDONALD
14840 119th PL NE
Kirkland, WA 98034
Phone (425) 210-0614
In Pro Per

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In Re:)	NO.: C10-1952RSL
)	
JAMES MCDONALD)	
Plaintiff)	
v)	Motion to Disqualify and Remove Counsel
ONEWEST BANK, FSB, <i>et al.</i> ,)	
Defendants.)	

TO: CLERK OF THE U.S. DISTRICT COURT
HEIDI E. BUCK, Attorney for Defendants

10-CV-01952-JGM

COMES NOW, JAMES MCDONALD, and moves this Court for an entry of an Order disqualifying Heidi Buck and Routh Crabtree Olsen, P.S., hereafter referred to as RCO from representing OneWest Bank, FSB, MERS and Northwest Trustee Services in this case.

FACTS

On or about January 7, 2011 Plaintiff received notification that RCO had been retained to represent Defendants OneWest Bank, FSB and MERS in this matter.

RCO lists Stephen Routh as the governing person with the Washington Department of Licenses and the Secretary of State (Exhibits ROC-A & ROC-B). Northwest Trustee Services lists Stephen Routh and David Fenell as the governing person(s) with the same departments (Exhibits ROC-C & ROC-D). Therefore both companies are owned in part or whole by Stephen Routh. All employees directly or indirectly report to Stephen Routh. Both companies are located at 3535

Factoria Blvd, SE in Bellevue, WA.
Motion for Removal of Opposing Counsel

-1-

James McDonald

14840 119th PL NE, Kirkland, WA 98034

Phone: (425) 210-0614

1 On or about January 15th, RCO caused to be sent to Plaintiff a letter identifying themselves
2 as a "debt collector" for Defendant OneWest Bank (Exhibit ROC-E).

3 RCW 61.24.010(4) states "The trustee or successor trustee has a duty of good faith to the
4 borrower, beneficiary and grantor". Northwest Trustee Services/RCO is in violation of this duty of
5 good faith due to a serious conflict of interest. Stephen Routh obtains income for representing
6 OneWest Bank and MERS for debt collection, legal representation and trustee services. There can
7 be no good faith to all entities when Stephen Routh's companies are ganging up" with one party
8 against another. By representing Defendants OneWest Bank, FSB and MERS RCO is only further
9 breaking the duty of good faith and must be removed.

10 Further, as the process of discovery commences it is highly probable that employees of
11 RCO may need to be deposed. While respecting the lawyer/client relationship it is the plaintiffs
12 intent to fully explore their role as a "debt collector", show the processes and validations of debt
13 RCO commences and potentially add them as a defendant in the lawsuit. Any and all employees will
14 be considered for potential depositions including Ms. Buck. An attorney cannot act as both counsel
15 and witness. Therefore Northwest Trustee Services needs to obtain outside and unaffiliated
16 counsel.

17
18 **CONCLUSION**

19 **THEREFORE, James McDonald requests this Court enter an order removing the opposing**
20 **counsel from representing the defendants in this matter.**

21
22 **DATED this 10 day of January, 2011.**

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James McDonald
Pro Se

Motion for Removal of Opposing Counsel

-2-

James McDonald

14840 119th PL NE, Kirkland, WA 98034

Phone: (425) 210-0614

Exhibit ROC-A

Search

BUSINESS & PROFESSIONAL LICENSES

License Details**License Information:****Entity Name:** ROUTH CRABTREE OLSEN, P.S.**Firm Name:** ROUTH CRABTREE OLSEN, PS**License Type:** Washington State Business**Entity Type:** Professional Service Corporation**UBI:** 601840737 Business ID:001 Location ID:0002**Status:** To check the status of this company, go to [Secretary of State](#).**Location Address:**13555 SE 36TH STE #120
BELLEVUE, WA, 98006**Mailing Address:**13555 SE 36TH STE #120
BELLEVUE, WA, 98006**Governing People:**

STEPHEN ROUTH

Registered Trade Names:

ROUTH CRABTREE FENNELL, P.S.

ROUTH & FENNELL, P.S.

ROUTH CRABTREE FENNELL

ROUTH CRABTREE & FENNELL

Information Current as of 01/10/2011 4:50AM Pacific Time

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Exhibit ROC-B

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ROUTH CRABTREE OLSEN, P.S.

UBI Number 601840737
 Category PRO
 Profit/Nonprofit Profit
 Active/Inactive Active
 State Of Incorporation WA
 WA Filing Date 12/24/1997
 Expiration Date 12/31/2011
 Inactive Date
 Registered Agent Information
 Agent Name LANCE E OLSEN
 Address 13555 SE 36TH ST STE 300
 City BELLEVUE
 State WA
 ZIP 98006
 Special Address Information
 Address
 City
 State
 Zip

Governing Persons

Title	Name	Address
Secretary	ROUTH, STEPHEN	13555 SE 36TH ST STE 300 BELLEVUE, WA
Treasurer	ROUTH, STEPHEN	13555 SE 36TH ST STE 300 BELLEVUE, WA
President	ROUTH, STEPHEN	13555 SE 36TH ST STE 300 BELLEVUE, WA

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PO Box 40234, Olympia WA 98504-0234
(360) 725-0377

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Exhibit ROL-C

Search

BUSINESS & PROFESSIONAL LICENSES

License Details

License Information:

Entity Name: NORTHWEST TRUSTEE SERVICES PLLC

Firm Name: NORTHWEST TRUSTEE SERVICES PLLC

License Type: Washington State Business

Entity Type:

UBI: 602073255 Business ID:001 Location ID:0002

Status: To check the status of this company, go to [Secretary of State](#).

Location Address:

3535 FACTORIA BLVD SE # 200
BELLEVUE, WA, 98006

Mailing Address:

3535 FACTORIA BLVD SE # 200
BELLEVUE, WA, 98006

Governing People:

DAVID FENELL
STEPHEN D ROUTH

Registered Trade Names:

NORTHWEST TRUSTEE SERVICES PLLC

Information Current as of 01/10/2011 4:50AM Pacific Time

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Exhibit ROC-D

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NORTHWEST TRUSTEE SERVICES PLLC

UBI Number 602073255
 Category PLC
 Profit/Nonprofit Profit
 Active/Inactive Inactive
 State Of Incorporation WA
 WA Filing Date 10/16/2000
 Expiration Date 10/31/2004
 Inactive Date 04/29/2004
 Registered Agent Information
 Agent Name M GAIL RYDER
 Address 777 108TH AVE NE STE 1900
 PO BOX C-90016
 City BELLEVUE
 State WA
 ZIP 980099016
 Special Address Information
 Address
 City
 State
 Zip

Governing Persons

Title	Name	Address
Manager	FENELL, DAVID	BELLEVUE, WA
Member	ROUTH, STEPHEN	BELLEVUE, WA

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 Washington Secretary of State - Corporations Division
 801 Capitol Way South
 PO Box 40234, Olympia WA 98504-0234
 (360) 725-0377


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Exhibit RUC-E

ROUTH CRABTREE OLSEN, P.S.

A Law Firm and Professional Services Corporation

3535 Factoria Blvd. SE, Suite 200

Bellevue, WA 98006

Telephone (425) 458-2121 • Facsimile (425) 283-0938

www.rcolegal.com

THIS OFFICE IS A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION WE OBTAIN WILL BE USED FOR THAT PURPOSE. THE FOLLOWING LETTER IS A DISCUSSION OF ALTERNATIVES TO FORECLOSURE. IT IS OUR UNDERSTANDING THAT YOU ARE NOT CURRENTLY IN BANKRUPTCY. IF YOU ARE IN BANKRUPTCY, THEN PLEASE DISREGARD THIS LETTER IN ITS ENTIRETY AND HAVE YOUR ATTORNEY CONTACT OUR OFFICE AS SOON AS POSSIBLE.

Jan 15, 2010

Re: Property: 14840 119th Place Northeast, Kirkland, WA 98034
Loan No.: 1009111244
Our File No.: 7523.21352

Dear Homeowner:

Please be advised that **Routh Crabtree Olsen, P.S.** is working with OneWest Bank FSB to help you keep your home. We represent your mortgage company and have received notice to commence foreclosure proceedings against your property. It is OneWest Bank FSB's mission to attempt to work out a solution to your loan situation, and they have asked us to open a line of communication with you.

WE WANT YOU TO BE ABLE TO KEEP YOUR HOME!

You may be eligible for certain opportunities that will help you stay in your home. You may have had an unexpected expense or a circumstance beyond your control that has forced you to miss some mortgage payments. OneWest Bank FSB would like to discuss your situation with you to determine what you can do to bring your loan current.

These alternatives are voluntary and could include:

- **Forbearance Plan:** An agreement to temporarily let you pay less than the full amount of your mortgage payment, or pay nothing at all, during the forbearance period. Your lender may consider a forbearance when you can show that funds from a bonus, tax refund, or other source of future income will let you bring the mortgage current or qualify you for a repayment plan or loan modification at the end of the forbearance period.
- **Reinstatement of Your Loan:** You would pay the total amount past due in one lump sum by a specified date.
- **Repayment Plan:** An agreement that gives you a fixed amount of time to repay the amount you are behind by combining a portion of what is past due with your regular mortgage payment. At the end of the repayment period you will have gradually paid back the amount of your mortgage that was delinquent.

- **Modification:** This is a written agreement between you and the lender that permanently changes the terms of the loan that in some instances may make your payments more affordable. Common loan modifications include:
 1. **Adding missed payments to your existing loan balance**
 2. **Making an adjustable-rate mortgage into a fixed-rate mortgage**
 3. **Extending the number of years you have to pay to a longer term**

WHAT IF YOU CAN NO LONGER AFFORD TO KEEP YOUR HOME?

If you cannot or do not want to keep your home, your lender can work with you to avoid foreclosure. This can help reduce the negative effect on your credit reputation. There are several different ways this might occur depending on your financial circumstances:

- **Deed in Lieu of Foreclosure:** Under certain circumstances, you would voluntarily transfer ownership of your property to the lender in exchange for cancellation of your mortgage debt. In most cases, you must attempt to sell your home for its fair market value for at least 90 days. You would be given a specific period of time to relocate. This option may not be available to you if there are other liens or judgments on your home.
- **Short Payoff:** If you can sell your house but the sales proceeds are less than the total amount you owe on your mortgage, your lender may agree to a short payoff and write off the portion of your mortgage that exceeds the net proceeds from the sale.
- **Assumption of Your Loan:** This option permits a qualified buyer to take over your mortgage debt and pay the payments, even if the mortgage is non-assumable.

HOW DO YOU TAKE ADVANTAGE OF THESE ALTERNATIVES?

Complete the enclosed two-page financial form and return it in the enclosed self-addressed envelope. Time is of the essence; this information will enable us to determine what option is best suited to keep your account from being foreclosed upon. Please return the requested information via fax at (425) 283-0938, or mail to:

Routh Crabtree Olsen, P.S.
Attention: Antoinette Bartlein
P.O. Box 4143
Bellevue, WA 98009-4143

Please note that the foreclosure action will continue whether or not the form is completed and returned. The foreclosure action will continue unless your lender determines that you are eligible for one of these alternatives and an agreement is signed. You also have the right and should seek the advice of an attorney.

We hope that you will complete the enclosed forms so that we can work with you to consider alternatives to the pending foreclosure of your property.

Sincerely,
ROUTH CRABTREE OLSEN, P.S.

1 JAMES MCDONALD
2 14840 119th PL NE
3 Kirkland, WA 98034
4 Phone (425) 210-0614
5 In Pro Per

6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 In Re:

NO.: C10-1952RSL

10 JAMES MCDONALD
11 Plaintiff
12 v
13 ONEWEST BANK, FSB, et al.,
14 Defendants.

Certificate of Mailing
Motion to Disqualify and Remove Counsel

15 CERTIFICATE OF MAILING

16 I hereby certify under penalty of perjury of the laws of the State of Washington that I mailed
17 a true and correct copy of the Notice of Motion for Removal of Opposing Counsel, Motion for
18 Removal of Opposing Counsel and Proposed Order Granting Removal of Opposing Counsel by
19 James McDonald, postage pre-paid, regular first class or priority mail on the 10 day of January,
20 2011 to the parties listed on the attached motion.

21 DATED this 10 day of January, 2011.

22 By: 
23 _____

24 James McDonald
25 Pro Se

26 Certificate of Mailing

-1-

James McDonald

14840 119th PL NE, Kirkland, WA 98034

Phone: (425) 210-0614

1 **Routh Crabtree Olsen, P.S.**

2 **13555 SE 36th St, Suite 300**

3 **Bellevue, WA 98006**

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Certificate of Mailing

-2-

James McDonald

14840 119th PL NE, Kirkland, WA 98034

Phone: (425) 210-0614

JAMES MCDONALD
14840 119th PL NE
Kirkland, WA 98034
Phone (425) 210-0614
In Pro Per

FILED
LODGED
ENTERED
RECEIVED
JAN 11 2011 LK
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

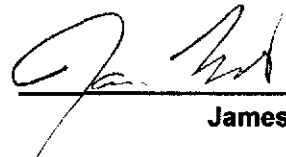
In Re:) NO.: C10-1952RSL
)
)
JAMES MCDONALD)
Plaintiff)
v) Notice of
ONEWEST BANK, FSB, *et al.*,) Motion to Disqualify and Remove Counsel
Defendants.)

PLEASE TAKE NOTICE THAT James McDonald, Debtor and Pro Se, will bring before the above Court located at 700 Stewart Street, Seattle, WA 98101, a motion to remove opposing counsel from the civil case.

IF YOU OPPOSE the Motion, you must file your written response with the Court Clerk, serve two copies on the Judge's chambers, and deliver copies to the undersigned NOT LATER THAN THE RESPONSE DATE, which is January 31st, 2011.

IF NO REPONSE IS TIMELY FILED AND SERVED, the Court may, in its discretion, GRANT THE MOTION PRIOR TO THE HEARING, WITHOUT FURTHER NOTICE, and strike the hearing.

DATED this 10 day of January, 2011.


James McDonald, Pro Se